

Appl. No. : 09/575,429
Filed : May 22, 2000

REMARKS

Rejections Under 35 U.S.C. §112

The Examiner has rejected Claim 1-16 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Specifically, the Examiner has found that the language of Claims 1-16 reciting a cassette "custom integrated" with the container renders the aforementioned claims vague and indefinite as to the intended structural relationship. In response, Applicant has amended Claim 1 to recite "a cassette *slidably received within a receptacle integrated with said container, wherein said receptacle extends vertically below said lid.*" (*Emphasis added*). Applicant submits that the rejections for indefiniteness are overcome.

The Examiner has also found that the language of Claims 3 is vague and indefinite as to what structure is intended by "flat face design." Applicant has amended Claim 3 to recite "a *recessed flat face configured to move a viewing area closer to said cassette*" (*emphasis added*). Applicant submits that the rejections for indefiniteness are overcome.

The Examiner has also found that the language of Claims 9 is vague and indefinite as to the placement of the "flap" to achieve the cited function of preventing splashing. In response, Applicant has amended Claim 9 to recite "a *hinged flap adjacent to a rim of said container, the hinged portion of the flap being affixed to an interior surface of said container in a position which partially blocks the opening of said container, said flap being configured to reduce the splashing of ... said fluid specimen...*" (*emphasis added*). Applicant submits that the rejections for indefiniteness are overcome.

Allowable Subject Matter

The Examiner has further stated that Claims 2-3 and 16 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant thanks the Examiner for extending this courtesy and has amended Claim 2-3 and 16 to be independent claims having the same claim number as the original dependent, and further including all of the limitations of the base claim and any intervening claims. In light of the

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amendments to base Claim 1 herewith, Applicant has chosen to rewrite (and further amend) Claims 2-3 and 16 as dependent Claims 17-18 and 21 for claim differentiation purposes.

The Examiner has further stated that Claims 3 and 9-10 would be allowable if written to overcome the above-mentioned rejections under 35 U.S.C. §112, second paragraph. Applicant thanks the Examiner for extending this courtesy and, as outlined above, Applicant has amended Claims 3 and 9-10 in response to the Examiner's rejections of the claims under §112, second paragraph. Accordingly, Applicant has amended Claims 3 and 9-10 to be independent claims having the same claim number as the original dependent, and further including all of the limitations of the base claim and any intervening claims. In light of the amendments herewith, Applicant has chosen to rewrite (and further amend) Claims 3 and 9-10, as amended, as Claims 18-20, respectfully, for claim differentiation purposes.

Rejections Under 35 U.S.C. §102 and 35 U.S.C. §103

The Examiner has rejected Claims 1 and 4-8 as being clearly anticipated under 35 U.S.C. § 102(b) by PCT application WO 97/33519 (Cipkowski) (WO '97 hereafter) or by U.S. Patent No. 5,916,815 (Lappe). The Examiner has also rejected Claims 11-15 as being unpatentable under 35 U.S.C. § 103(a) over WO'97 and Lappe. Specifically, the Examiner maintains that "when the cover is attached to the container, the lid and all its attachments, are integrated with the container." Office Action at p. 3.

Applicant does not dispute the Examiner's finding, but nevertheless submits that Claim 1, as amended, distinguishes the art of record. Claim 1, upon which Claims 2-16 depend, recites a "container having a top opening [...]*a cassette slidably received within a receptacle integrated with said container...and a lid configured to cover said top opening with the cassette inside, wherein said receptacle extends vertically below said lid.*" (*Emphasis added*).

The asserted prior art, in contrast, does not teach or suggest anything about a cassette which is slidably received within a receptacle integrated the container wherein the receptacle *extends vertically beneath the lid*. Rather, the references either teach the *attachment* of a card *to the lid* of the container or sliding the card through a *horizontal slot* in the lid in order to perpendicularly suspend the card from the lid into the container below. Lappe teaches a drug assay system comprising a collection cup 10, a lid 18, and a test card 22 affixed perpendicular to

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the collection cup lid 18 and extending downward into the collection cup 10. *See*, Col. 3, l. 66-Col. 4, l. 5. Lappe does not teach or suggest a receptacle which extends vertically below the lid, as recited in amended Claim 1, whether or not the lid is considered integrated with the container. WO '97 teaches a drug abuse kit comprising a container 11 having a closure cap 22 with a slit 19 configured to receive a drug test card 25. *See*, Col. 3, ll. 27-47. Although the slit 19 of WO '97 is below the closure cap 22, only a horizontal opening or slot, which does not extend vertically beneath the lid (as recited by amended Claim 1), is apparent.

Claim 4 has also been amended to reflect the changes to Claim 1. An example of the aforementioned receptacle is described in the specification and in Claim 4, through the configuration of a container having custom channels into which the cassette is slid in order to properly orient the cassette within the container. *See*, '429 Application, p. 6, ll. 19-29.

Accordingly, Applicant traverses the Examiner's §102 rejections of base Claim 1 and 4-8 have been overcome. Furthermore, since neither of asserted references, alone or in combination, teaches or suggests a specimen cup having the unique features recited in newly amended Claim 1, in addition to the materials recited in Claims 11-15, Applicant traverses the Examiner's §103 rejections Claims 11-15.

Accordingly, Applicant submits that as the art of record does not teach or suggest an invention having each of the recited features in the claims as amended, and, as a result, the amended claims are allowable over the art of record.

Additional Amendments and Added Claims

Claims 1-16 have also been amended to correct typographical and other inadvertent errors, and to better protect the subject matter Applicant regards as the invention, in addition to the aforementioned reasons. These amendments to correct inadvertent errors are also reflected in the newly added Claims 17-21, which are based on the original Claims 2-3, 9-10, and 16, respectively. In addition, Claims 11-15 have been amended to recite the intended dependency from Claim 11, rather than Claim 10. These typographical amendments do not add any new matter and are fully supported by the specification.

Claims 22-23 have also been added to better claim the subject matter Applicant regards as the invention. These amendments add no new matter and are fully supported by the specification.

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For example, Claim 22 recites, *inter alia*, “said lid is threaded to mesh with threads on a rim of said container, the meshing of said lid threads with the rim threads providing a substantially sealed closure,” support for which can be found on page 5, lines 9-11. Claim 23 which recites, *inter alia*, “said lid is independent of said container,” is supported by the specification as filed at page 5, lines 9-11, in addition to at page 7, lines 20-22. *See also*, Fig. 1. Accordingly, Applicant submit that these added claims are in condition for allowance and request the same.

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CONCLUSIONS

In view of the foregoing amendments and remarks, Applicant respectfully submits that the application as amended is in condition for allowance and respectfully requests the same. If, however, some issue remains that the Examiner feels can be addressed by Examiner's Amendment, the Examiner is cordially invited to call the undersigned for authorization.

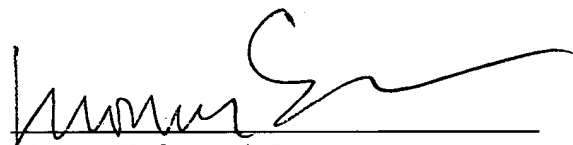
Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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